



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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October 22, 1992

## CERTIFIED RETURN RECEIPT

P 074 978 857

Mr. Harold Marston  
Jay Pagano Estate  
P.O. Box 136  
Wellington, Utah 84501

Dear Mr. Marston:

Re: Reply to Operator's Response Concerning Sept. 11, 1992 Notice of Noncompliance,  
Pagano Clay Project, M/015/026, Emery County, Utah

The Division received your October 15, 1992 response (facsimile), concerning our September 11, 1992, Notice of Noncompliance (NON). Your letter requests that the Division extend the time period for addressing the permit deficiencies, described in the September 11th noncompliance notice. You also express disagreement with our disturbed area acreage estimate and the reclamation surety.

By receipt of your facsimile, you have responded to the NON by the October 15, 1992 deadline. Although you have not adequately addressed all of the outstanding issues as detailed in the noncompliance notice, we believe that your arguments for a time extension are reasonable.

The Division will grant a 60-day extension to resolve the remaining permitting issues. The new deadline is hereby extended until 5:00 p.m., **December 18, 1992. All permitting and reclamation surety information must be received and determined complete by the Division within this timeframe.**

The following items must be addressed by the operator to mitigate/resolve the noncompliance situation:

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1. You have indicated that the disturbed area, associated with the Pagano Clay Project, will be surveyed to establish the exact area of disturbance. The Division requests that the survey be performed by a professional, licensed land surveyor, and that the proposed date and time for the survey be provided in advance to this office. If our schedules will allow, Division staff would appreciate the opportunity to witness and/or participate in this survey.
2. A detailed reclamation plan must be provided to the Division. This plan must address the procedures to be followed in reclaiming the site (to include what has already been accomplished and what remains). We have enclosed a copy of Form MR-LMO, Notice of Intention to Commence Large Mining Operations. Please address all of sections I and II, and all of sections V - VIII. Because no topsoil was salvaged before operations commenced, you will need to address a topsoil variance under section VI. The facilities map (in this case a reclamation treatments map), at a scale of 1" = 200', as proposed in your letter, should be adequate.

The reclamation plan should include all areas of the mine site which will require (or have received) some type of reclamation treatment. Some portions of the site, such as the stream channel, will require a different reclamation treatment than the majority of the site (riparian plantings, pulling back loose material, etc.). Also, some heavily compacted portions of the site will require further ripping.

3. The Division and operator must reach an agreement on the reclamation surety amount. You have indicated that our preliminary \$23,300.00 surety estimate, is too high for the extent of reclamation remaining at this site. Our estimate is based on a state wide average of \$1,200/acre for this type of reclamation work, which includes: mulching, fertilizing, disking, seed mix, drill seeding and equipment mobilization. The surety must take into account the contracting costs that the state would incur to perform the required reclamation.

The Division will work with the operator to establish a reasonable and accurate reclamation surety amount. The final surety estimate will be tied directly to the actual (surveyed) disturbed acreage figure and the amount of reclamation still to be accomplished.

Part of the surety estimate incorporates the seed mix to be applied to the site. We have attached a revegetation seed mix recommendation. This seed mix is

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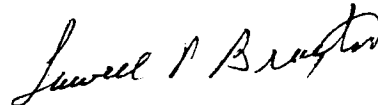
October 22, 1992

typical of other mixes used by mine operators in similar areas across the state. A seed mix involving one or two species will not be acceptable. The revegetation seed mix must take into account the post-mine land use of the area. In this case, we assume it to be livestock grazing and wildlife habitat.

A Reclamation Contract, FORM MR-RC (copy enclosed) must be completed and submitted along with the chosen form of surety. Please advise, as soon as possible, your preferred form of surety, so that we may forward the appropriate forms to you.

Thank you for your continued consideration of this issue. We look forward to reaching a resolution to this Noncompliance situation in as expedient and agreeable a manner as possible. Please contact me directly, if I can be of further assistance in resolving these outstanding permitting requirements.

Sincerely,



Lowell Braxton  
Associate Director, Mining

jb

Enclosures

cc: Mark Page, Water Rights, Price Office  
Tom Mitchell, AAG  
Minerals staff (route)

M015026

Prepared by Division of Oil, Gas and Mining  
October 21, 1992

Reclamation Seedmix Recommendation  
for the  
**Pagano Clay Project**  
M/015/026

Mine Area

**Grasses**

<u>Common Name</u>	<u>Scientific Name</u>	<u>lbs/Acre</u>
Crested wheatgrass	Agropyron cristatum	2
Indian ricegrass	Oryzopsis hymenoides	1
Bluebunch wheatgrass	Agropyron spicatum	2
Western wheatgrass	Agropyron smithii	2

**Forbs**

Melilotus officinalis	<del>Cicer milkvetch</del> <i>Yellow Sweetclover</i>	1
Blue flax	Linum lewisii	.5

**Trees and Shrubs**

Fourwing saltbush	Atriplex canescens	2
Shadscale	Atriplex confertifolia	2
Winterfat	Eurotia lanata	2

Total lbs/acre = 14.5

Seed Application

The above seeding rate has been developed for application by Drill seeding. If broadcasting is to be used the rate should be increased by 35%.

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Seed Mix Recommendation

You will need to ensure that the soil has been loosened sufficiently before seeding by disking or harrowing (at least the top 6 inches of soil). Where the soil has become extremely compacted, resulting from heavy equipment usage, you will need to deep rip the soil, before seeding.

The seed should be applied before the first hard freeze of the year, preferably before the end of November.

**Riparian Area**

**Grasses**

<u>Common Name</u>	<u>Scientific Name</u>	<u>lbs/Acre</u>
Alkali sacaton	Sporobolus airoides	1
Basin wildrye	Elymus cinereus	3

**Trees and Shrubs**

Willow	Salix spp	see below
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Since seed is not available, willows must be planted as tublings or cuttings. Approximately 50 tublings/cuttings should be planted in areas of disturbance along the stream channel. The grasses should be broadcast onto stream embankments.